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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/672,190	09/28/2000	Alberto Alvarez-Calderon F.		9153

7590 04/10/2003

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EXAMINER

SWINEHART, EDWIN L

ART UNIT

PAPER NUMBER

3617

DATE MAILED: 04/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☐ Responsive to communication(s) filed on _____.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1, 2, 13-21 is/are pending in the application.
Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1, 2, 13-21 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

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DETAILED ACTION

1. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 2/5/2002 have been disapproved because they introduce new matter into the drawings. 37 CFR 1.121(a)(6) states that no amendment may introduce new matter into the disclosure of an application. The original disclosure does not support the showing of the specific cross-sections.

Applicant has made no comment re the proposed figures, and therefore it is not known what such figures are illustrating. It is assumed such (as least fig. 2b) are cross-sections of the present invention, and such find no clear and adequate support in the disclosure as originally filed.

2. Claims 1, and 21 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The now claimed relative draft and percentage of submergence finds no support in the specification as originally filed.

Applicant states that such a percentage was measured from the drawings. Since drawings are not required to be to scale, and Applicant never, as originally filed indicated such drawings being to scale, such is New Matter.

The 4.5% relation as set forth in claim 21 finds no support in the specification as originally filed.

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3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 10982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 13-17 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-24 of U.S. Patent No. 6,158,369. Although the conflicting claims are not identical, they are not patentably distinct from each other because all of the limitations of the pending claims are set forth in the claims of the patent.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1,2,13-18 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Clapham.

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Clapham discloses a generally triangular water plane area, deep bow draft and shallow stern draft, wherein the width at the stern is greater than that at the bow. The hull comprises two sides and a bottom, and exhibits a draft as claimed.

Re “generally rectilinear”, such fails to define any specific structure and/or arrangement so as to define over Clapham, as the sides can be seen as rectilinear in figure 4, in even in plane view, the sides of Clapham exhibit a somewhat rectilinear shape.

Re “draft adjacent said stern”, such is essentially an arbitrary point near the stern, and as such, fails to define over Clapham.

7. Claims 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Ramde.

Ramde discloses a hull exhibiting a generally triangular waterplane having deeper draft at bow than at the stern, having no bulb, and a center of gravity positioned as claimed.

8. Applicant's arguments filed 2/5/2002 have been fully considered but they are now deemed moot in view of the new grounds of rejection.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Papers relating to this application may be submitted to Technology Center 3600 by facsimile transmission. The submission of such papers by facsimile transmission must comply with the notice published in the Official Gazette, **1096 OG 30** (November 15, 1989). The Fax Center number is (703)-872-9326.

11. Any inquiry concerning this communication should be directed to Ed L. Swinehart whose telephone number is (703)-308-2566.

12. Any inquiry of a general nature or relating to the status of the application should be directed to the Technology Center 3600 receptionist whose telephone number is (703)-308-1113.

April 4, 2003

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke, positioned above the printed name.

Ed L. Swinehart
Primary Examiner
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